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October 29, 1997

HAND DELIVERY

Mr. David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

Re: Universal Service Generic Contested Case
Docket No. 97-00888

Dear Mr. Waddell:

Enclosed for filing in the above-referenced case are the original and thirteen copies of the Statement of Stipulations and Contested Issues submitted on behalf of the Time Warner Communications of the Mid-South, L.P., BellSouth Cellular Corp., BellSouth Telecommunications, Inc., Tennessee Cable Telecommunications Association, United Telephone-Southeast, Inc., Sprint Communications Company, MCI Telecommunications Corporation, Citizens Telecommunications Company of Tennessee, L.L.C. and Citizens Telecommunications Company of the Volunteer State, L.L.C.

AT&T Communications of the South Central States, Inc. and NEXTLINK Tennessee, L.L.C. have participated in negotiations, but due to time constraints do not join in this Statement of Stipulations and Contested Issues.

Copies are being served on counsel for known interested parties.

Very truly yours,

FARRIS, MATHEWS, GILMAN,
BRANAN & HELLEN, P.L.C.

By: Charles B. Welch, Jr. (cg)
Charles B. Welch, Jr.

CBW,jr:cg

cc: Carolyn M. Marek
Parties of Record

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**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

In Re:

**Universal Service Generic
Contested Case**

**Docket No.
97-00888**

STATEMENT OF STIPULATIONS AND CONTESTED ISSUES

Comes now, Time Warner Communications of the Mid-South, L.P. ("Time Warner"), BellSouth Cellular Corp., BellSouth Telecommunications, Inc. ("BellSouth"), Tennessee Cable Telecommunications Association ("TCTA"), United Telephone-Southeast, Inc. and Sprint Communications Company, L.P. ("Sprint"), MCI Telecommunications Corporation ("MCI"), Citizens Telecommunications Company of Tennessee, L.L.C. and Citizens Telecommunications Company of the Volunteer State, L.L.C. ("Citizens"), and Coalition of Small LECs and Cooperatives, interested parties in this matter, and submit their statement of stipulations of fact and law and contested issues for decision by the Tennessee Regulatory Authority, as follows:

1. Define and determine what services are to be supported by a Tennessee universal service support system?

Stipulation: The following services should be supported by a Tennessee universal service support system (items 1 -8 are from the Federal definition; items 9 and 10 are from the Tennessee statute):

- (1) Single party service;
- (2) voice grade access to public switched network;
- (3) DTMF signaling or its functional equipment;
- (4) access to 911 emergency services;
- (5) access to operator services;

- (6) access to interexchange service;
- (7) access to directory assistance;
- (8) toll control or toll blocking for qualifying low income customers;
- (9) Lifeline;
- (10) Link-up Tennessee.

The Parties agree that primary lines for basic residential service should be supported.

Contested Issue: Should secondary residential lines and/or single lines for business receive support from the universal service support system?

- a. Do we use state or Federal defined services?

Stipulation: The Federal definition should be used with the addition of the two items from the Tennessee statute, and clarification on toll limitations to recognize the technical limitations associated with toll control (see above).

- b. Should we provide support in addition to Federal mandated services?

Stipulation: No. Additional services should not be supported at this time except to maintain the educational discounts existing on the effective date of TCA §65-5-208(a)(1).

- c. What are the universal service core elements?

Stipulation: See response to Issue 1.

- d. Does Tennessee Relay Center need to be addressed in this proceeding?

Stipulation: No. The TRA should initiate a separate generic case proceeding to develop a competitively neutral recovery mechanism for Telephone Relay Service. The Parties agree that the mechanism should appear as a separate line item on end-user bills.

- e. Do public interest payphones, if determined to be necessary, need to be addressed in this proceeding?

Stipulation: No. The Parties agree that this issue should be addressed in the pending payphone docket, Docket 97-00409, or another proceeding.

- 2. Will all carriers be able to provide all elements of universal service?

Stipulation: The TRA has authority to certify telecommunications service providers in Tennessee as “Eligible Telecommunications Carriers (ETC)” based on the Federal requirements outlined in Section 214(e)(1). The FCC does allow an exception to these requirements. (FCC’s Rule §54.101(c)). Upon petition to the TRA, a carrier incapable of providing single party service, E-911, or toll limitation services may receive Federal universal service support for a grace period to allow for completion of network upgrades to provide these components. The TRA should also adopt this exception for intrastate universal service support.

a. How should the TRA address “exceptional circumstances”?

Stipulation: The FCC rules should be followed for addressing “exceptional circumstances”. (See response above.)

3. What carriers/providers are eligible to receive support?

Stipulation: At a minimum, any carrier who can demonstrate compliance with the requirements of Section 214(e)(1) of the Act is eligible to receive support.

a. What procedures will the TRA use for designating ETC.

Stipulation: Carriers should file a motion (as the TRA has requested in this docket) or a petition (for those carriers requesting designation as an ETC in the future) with the TRA for its approval. The TRA must ensure that the ETC at a minimum has met the requirements in Section 214(e)(1). Section 214(e)(1) does not prohibit a state from establishing additional criteria for designation of ETCs in connection with the state’s Universal Service Fund, consistent with Section 254(f).

Contested Issue: What, if any, additional criteria should the state establish for the designation of ETCs?

b. Should those companies not under TRA authority be designated as an ETC?

Stipulation: Yes, if a company is eligible for designation as an ETC and is willing to comply with the TRA’s procedures, rules, and regulations governing universal service support administration.

c. Should the TRA adopt the Federal advertising guidelines?

Stipulation: Yes, the TRA should adopt the Federal advertising guidelines as set forth in Section 214(e)(1)(b).

- d. Should the TRA adopt the Federal facilities requirements?

Contested Issue.

- e. Must a carrier participate in this proceeding to be eligible for designation as an ETC?

Stipulation: No.

- f. What procedure is necessary to ensure that all rural carriers satisfy notice of status requirement?

Stipulation: No procedure is necessary. If a rural carrier does not apply for rural carrier status, such status will not be conferred.

4. Define carrier of last resort designation.

Stipulation: At a minimum, "carrier of last resort" should reflect the Federal definition of "eligible telecommunications carrier".

- a. Is this term still relevant?

Stipulation: No, not in the context of this proceeding.

- b. If so, how do we designate?

Stipulation: Not applicable.

- c. Can a carrier of last resort withdraw service and if so how?

Stipulation: The TRA should implement the Federal rules (§54.205) regarding ETC withdrawal of service.

5. Define service areas.

Stipulation: See Stipulation to Issue 5(a).

- a. How does the TRA designate service areas for rural and non-rural areas?

Stipulation: The Act defines the service areas of rural carriers in Section 214(e)(5) which should control until such time as these areas are redefined by the TRA. Service areas served by non-rural carriers should generally be defined as an area no larger than a wire center, but should not preclude a Census Block Group ("CBG").

Contested Issue: Should non-rural service areas be defined as "wire center", or a "CBG"?

b. Should ETC and service area be the same? If not, what are alternatives?

Stipulation: For rural incumbent carriers, the ETC and the service area (or FCC-designated study areas) are the same. For non-rural carriers, ETC and service area are the same if the service area is no larger than a wire center.

Contested Issue: Should the service areas for CLECs applying for ETC status in a rural area be defined as only the contiguous service areas of the rural ILEC?

c. Should rural carriers be required to file proposed service area and can others comment on that filing?

Stipulation: This is a moot point for incumbent rural carriers as the proposed service areas are defined by the Act. Rural CLEC carriers should be required to file a proposal subject to comment.

d. Determine if there are any unserved areas in Tennessee.

Stipulation: The Parties are unaware of any areas where customers' service requests are not being met.

6. What carriers/providers must provide support under a Tennessee universal service system?

Stipulation: Section 254(f) of the Act requires "Every telecommunications carrier that provides intrastate telecommunications services shall contribute...to the preservation and advancement of universal service in that state."

a. Define telecommunications carrier. Is the TRA required to use the Federal definition?

Stipulation: Yes. The TRA must adopt the Federal definition as set forth in Section 3(a)(49) of the Act.

b. Does state or Federal law require contributions or participation from carriers not under TRA authority?

Stipulation: Yes.

7. How do we determine if rates are affordable?

Contested Issue.

a. If current rates are set using existing statutes, are rates considered affordable?

Contested Issue.

b. Must the TRA use Federal standards for affordability?

Contested Issue.

c. If so, how do we gather information and apply the Federal standards in this case?

Contested Issue.

8. How does the TRA define implicit and explicit subsidies?

Contested Issue.

a. Determine definition.

Contested Issue.

b. How does the TRA determine implicit subsidies in current rates?

Contested Issue.

c. How does the TRA make implicit support explicit as defined by the Act and the FCC?

Contested Issue.

d. What cost methodology should be used to determine existing implicit subsidies?

Contested Issue.

e. Should the TRA identify implicit subsidies by element or groups of elements?

Contested Issue.

9. Preliminary cost modeling issues.

Stipulation: The Parties agree and mutually request that only items 9(b),(j) and (k) be addressed in Phase I of this proceeding. The other items should be addressed in Phase II. Additionally, the Parties recommend that in Issue 9(j), the term "network elements" be replaced with the term "service revenues".

Contested Issue: No stipulation was reached on the answers to these issues.

- a. Should universal service cost studies be company-specific or generic?

Contested Issue.

- b. What is the proper territorial scope of universal service rates (e.g., statewide by carrier, by service area, or by category of support?)

Contested Issue.

- c. What is the proper level to which deaveraging should be applied in the cost studies?

Contested Issue.

- d. Should rural and non-rural study areas be combined or separated in the cost studies?

Contested Issue.

- e. Which network elements are necessary to provide services included in universal service?

Contested Issue.

- f. Should universal service cost studies be based on cost studies for permanent UNE prices?

Contested Issue.

- g. Should costs be developed on a combined or intrastate basis?

Contested Issue.

- h. Should state specific or federal factors be used in the cost studies?

Contested Issue.

- i. Is it possible to create a hybrid model from the individually proposed models?

Contested Issue.

- j. Which network elements should be included in the revenue benchmark?

Contested Issue.

- k. What time period should be used to calculate the revenue benchmark?

Contested Issue.

10. How should the TRA determine the basis for support for low income consumers?

Stipulation: See Stipulations in Items 10(a) - (c).

- a. Should the TRA change its existing Lifeline program?

Stipulation: Yes. The TRA should notify the FCC of its approval of the additional \$3.50 reduction in intrastate Lifeline rates provided by the additional Federal support amount set forth in the FCC's Order in CC Docket No. 96-45, adopted May 7, 1997.

Eligible telecommunications carriers must comply with the requirements of the federal Lifeline program and the low income consumer eligibility requirements set forth by the TRA.

- b. What standards and procedures should be adopted to address waiver requirements to the no-disconnect rule?

Stipulation: The TRA should adopt the waiver requirements set forth in FCC Rules Section 54.401(b)(1).

- c. What funding mechanism should be adopted to fund Lifeline and Linkup?

Stipulation: In addition to the federal funding mechanism for Lifeline and Link-up programs, an explicit state funding mechanism should be established for any TRA mandated reductions in end-user charges not funded from federal sources. State funding could come from an explicit surcharge on end-user bills, an explicit intrastate fund for Lifeline support, or by other means.

11. What support in addition to the Federal support already adopted by the TRA

should be provided to schools and libraries?

Stipulation: TCA §65-5-208(a)(1) requires pre-existing state discounts for schools and libraries be continued. However, the Parties agree that no additional state support should be implemented.

Contested Issue: Is an explicit support mechanism necessary for existing state educational discounts?

- a. The TRA should state specifically what discounts are available in Tennessee and at what levels.

Stipulation: The Parties agree that the TRA should specifically identify all school and libraries discounts available in Tennessee and the level for each.

- b. How does the TRA address pre-discount price complaints?

Stipulation: The existing complaint procedures should be followed with regard to any type of universal service complaint including but not limited to pre-discount complaints.

12. What should be provided to health care providers?

Stipulation: See Stipulation to Issue 12(a) below.

- a. Should the TRA provide support in addition to that provided for by the Act and the FCC?

Stipulation: No.

- b. If so, who should pay for it and how?

Stipulation: Not applicable.

13. How should the TRA monitor provision of supported service to determine if support is being used as intended until competition develops.

Stipulation: The TRA should continue to monitor the quality of service provided by ETCs until there are two or more ETCs offering services in a given service area.

- a. Does the TRA need cost allocation rules or accounting safeguards to determine that services supported do not bear more than a reasonable share of joint and common cost or otherwise unnecessarily subsidize a service?

Stipulation: No. Once universal service joint and common costs are determined in Phase II of this proceeding, cost allocation rules and accounting safeguards will not be necessary.

14. Are any changes in state laws or rules needed?

Stipulation: See Stipulations to 14(a) through 14(e).

a. Is there a conflict between federal statute provision that universal service support should be explicit and the Tennessee statute requirement?

Stipulation: No. The TRA should develop an explicit mechanism for universal service support.

b. How does the TRA reconcile state universal service statute with federal statute on "sufficient" universal service funding.

Stipulation: No reconciliation is necessary as there is no conflict between the statutes.

c. Will rules have to be changed to allow various regulatory schemes to provide for recovery of any universal service contributions?

Stipulation: At this time, the parties do not anticipate any changes to the rules, but future developments may warrant further review of this issue.

d. Will rules have to be changed to allow transition for carriers operating under various regulatory schemes?

Stipulation: At this time, the parties do not anticipate any changes to the rules, but future developments may warrant further review of this issue.

e. If legislation is needed to appoint third party administrator it must be obtained.

Stipulation: No. The provisions of TCA §65-5-207 convey broad authority to the TRA to create the appropriate universal support mechanism. This enabling provision includes the authority to identify a third party administrator and to promulgate rules and regulations for delegation of management responsibilities.

15. Should the access charge reform issues be incorporated into the schedule addressing Phase II of the universal service proceeding?

Contested Issue.

Respectfully submitted,

By: Charles B. Welch Jr.

Charles B. Welch, Jr. - BPR #005539
Attorney for Time Warner Communications of
the Mid-South, L.P. and Tennessee Cable
Telecommunications Association

(Signed with permission)
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Volunteer State, L.L.C.
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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Statement of Stipulations and Contested Issues, on all parties of record by placing a copy of same in the United States Mail, properly addressed and postage prepaid on this the 29th day of October, 1997.

Charles B. Welch Jr.
Charles B. Welch, Jr.